

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4428 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MANOJKUMAR G DHRANGA

Versus

STATE OF GUJARAT

Appearance:

MR HK RATHOD for Petitioner

MR VB GHARANIA for Respondent No. 1

None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/04/99

ORAL JUDGEMENT

1. Arguments heard. Challenge has been made by the petitioner to the selection and appointment of the respondent No.4 as Assistant Teacher of Physical Education in Gram Prathmik Shala Vinay Mandir, Vedhwa. The petitioner was one of the applicants in this selection.

2. Relying on the decision of the Apex Court in the case of Kirti Deshmanker vs. Union of India reported in 1991 (1)SCC 104, it is contended that the selection and the consequential appointment which has been given to the respondent No.4 on the post aforesaid vitiates only on the ground that his father-in-law was one of the members of the selection committee. It has next been contended that before the interview could have been started for selection to be made on the aforesaid post, the petitioner along with other candidates raised a protest in writing to the District Education Officer, but still no action has been taken by the D.E.O. to see that this biased person may not be there in the selection committee.

3. The State of Gujarat has put appearance only as a guest artist which we are having in the cinemas. Total contribution of the State of Gujarat in this case is noncooperative attitude though it is very very serious matter and despite of raising protest by the petitioner in this matter, the D.E.O. concern has not taken any action. The State of Gujarat could have taken appropriate disciplinary action against the said officer. Be that as it may.

4. The facts stated in the special civil application are not disputed, namely that a protest has been raised by the applicants before the interview for this post was started. Only grievance has been made in the reply that in that protest application, the petitioners' signature are not there. It is not material. Material is that protest was made and it is admitted by the respondents. The proceedings of the selection committee are on the record of this special civil application wherefrom I find that the respondent No.3 was there as one of the members of the selection committee. Relation of respondent No.4 with the respondent No.3 got him appointed as teacher is also not disputed.

5. In the result, this special civil application succeeds and the same is allowed and the appointment of the respondent No.4 as Assistant Teacher of Physical Education in Gram Prathmik Shala Vinaymandir, Vedhwa is declared to be illegal and accordingly the same is quashed and set aside. Rule is made absolute. The respondent NO.4 is directed to pay Rs.1000/- as costs of this petition to the petitioner.

zgs/-